An association for persons or organizations with an interest in or that provide support for persons who have mental illness, developmental delay or substance use disorder, and who are licensed by or funded by the Department of Behavioral Health and Developmental Services.

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Virginia Network of Private Providers, Inc.

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Comments on CMS 2442-P – Ensuring Access to Medicaid Services

While we appreciate the effort to improve the access to Medicaid funded services by increasing transparency and accountability and more active participation in the rate setting process, we have multiple concerns about the proposed approach:

- Overall, there is no guarantee that the General Assembly would fund the added costs associated with the expansion of the state-level administrative burden imposed by any of the added measures; they become, therefore, just another unfunded mandate that by default limits attention and resources which could/should be better used
- The most prominent example is the proposal that at least 80% of the payment is spent on "compensation" for the direct care workforce. While the proposal is currently limited to just three services, CMS has specifically invited comments on whether or not other service categories should be included. We strongly oppose the proposal that payment "adequacy" be determined by assigning a percentage to direct care compensation. **This fails to speak to payment adequacy at all, but rather diverts the attention by assuming that if 80% of the payment is dedicated to direct care compensation by default the payment is adequate.**
    - In managing the "business" of providing a Medicaid service there are several foundational propositions; the first of those is that it is "good business" to develop and maintain a qualified direct care workforce with turnover as low as possible and experience/stability as high as possible. A good compensation and benefits package is key to that effort.
    - A second foundational proposition is that Medicaid services are highly regulated at the State level; compliance with those regulations supports the service quality and, importantly, allows the provider to continue to operate. The factors at play to accomplish this vary greatly and may require a considerable effort, staff and resources and be, for the most part, outside of the control of the provider.
    - The assumption that allocating 80% of the "payment" to compensation assumes that the component parts of the compensation are proportionally static; it does not take into account, for example, the impact that an increase in the cost of health benefits could have on the amount available for wages.

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- Lastly, with the requirement that "the State must report" – which as noted above is a potentially unfunded mandate, it is inevitable that the "provider must report" which is an administrative burden clearly contributing to the cost covered by the would-be remaining 20% of the payment.

- Adding standards for a person-centered service plan, a grievance system and an incident management system is not unreasonable, but the funding for development, implementation and ongoing monitoring should come from an increase in the FMAP and not depend on the state to provide to meet the additional costs. At the provider level, implementing new systems is never easy and adds to the administrative costs associated with the management of services.

In short – while the intent of the proposed regulations may be good, the implementation will be costly, potentially overwhelming at both the State and the Provider levels and **will not** address the underlying workforce crisis. We feel strongly that the rule as drafted will neither accomplish its purpose nor improve access to services.

On behalf of the members of the Virginia Network of Private Providers, Inc.

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